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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,713	02/01/2006	Makihito Otohata	Q92948	9015
23373 7590 04/01/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
BEST, ZACHARY P				
ART UNIT		PAPER NUMBER		
1795				
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04/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/566,713

Applicant(s)

OTOHATA ET AL.

Examiner

Zachary Best

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 20060201
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

FILM-COVERED BATTERY AND FABRICATION METHOD

Examiner: Z. Best S.N. 10/566,713 Art Unit: 1795

Election/Restrictions

1. Applicant's election without traverse of Claims 1-7 in the reply filed on December 15, 2008 is acknowledged. Claims 8-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Information Disclosure Statement

2. The information disclosure statement filed February 1, 2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information failing to comply with 37 CFR 1.98(a)(2) referred to therein has not been considered.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

4. Claim 1 is objected to because the term “confront” should be “confronts.” Proper correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Bannai et al. (US 6,503,656 B1).

Regarding Claim 1, Bannai et al. teach a film-covered battery (abstract) comprising a battery element (1) having a configuration in which a positive electrode confronts a negative electrode (col. 2, lines 52-57), and a laminate film (2), in which at least a heat-seal resin layer and a metal foil layer are laminated (col. 2, lines 52-57), for encapsulating said battery element with said heat-seal resin layer arranged on an inner side and for sealing said battery element by heat-sealing an outer periphery of said laminate film (col. 2, lines 36-57), wherein a cross-linked structure is formed in said heat-seal resin layer of said laminate film in at least an area in which said heat-seal resin reaches a temperature equal to or greater than the melting point at the time of heat sealing said laminate film (5) with the exception of an outer

periphery of a heat-sealed area and in which said laminate film contacts a part that is sealed inside said laminate film (4).

Regarding Claim 2, Bannai et al. teach the heat sealed area (4, 5) is formed in an area that includes an outer periphery of an area (4) in which said cross-linked structure is formed (fig. 4).

Regarding Claim 3, Bannai et al. teach lead terminals (3a, 3b) that extend outside said laminate film are connected to each of said positive electrode and negative electrode (col. 4, lines 23-32).

Regarding Claim 4, Bannai et al. teach the film-covered battery as recited above. It is noted that Claim 4 is a product-by-process claim. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. In *re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed.Cir. 1985). The battery taught by Bannai et al. anticipated to that of Applicant's, and therefore, Applicant's process is not given patentable weight in this claim.

Regarding Claim 5, Bannai et al. teach said heat-seal resin layer includes a polyolefin (col. 5, lines 23-35).

Regarding Claim 6, Bannai et al. teach said heat—eal resin layer is a material in which an electron beam-reactive compound (col. 5, lines 42-62) is added to an electron beam-decomposing (degradable) resin (col. 5, lines 11-22).

Regarding Claim 7, Bannai et al. teach said battery element is a chemical battery element (col. 4, lines 33-47).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachary Best whose telephone number is (571) 270-3963. The examiner can normally be reached on Monday to Thursday, 7:30 - 5:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dah-Wei Yuan can be reached on (571) 272-1295. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Zpb

/PATRICK RYAN/
Supervisory Patent Examiner, Art Unit 1795